

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1240

Introduced by Assembly Member Davis

February 27, 2009

An act to amend Sections ~~81332, 81373, and 81523~~ of, *81332 and 81373 of, to add Section 81523.5 to, and to repeal Section 81371 of, the Education Code, relating to community colleges.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1240, as amended, Davis. Community colleges: leasing of buildings: sale of district property.

(1) Existing law allows the governing board of a community college district to enter into an agreement with another entity whereby that entity will construct a building to be used and leased by the district. Existing law requires the agreement to vest title to the building in the district at, or before, the expiration of the lease.

Before entering into this type of agreement, existing law requires that the district have a site available upon which the building may be constructed, that the district has complied with provisions of existing law relating to the selection and approval of the site, and has prepared and adopted plans for the building to be constructed on the site. Existing law provides that a district has a site available for the construction of a building if it either owns the site or has an option which allows the district to purchase the site.

This bill would delete provisions providing that a site is available for construction of a building if the district has an option on the property.

(2) Existing law allows the district to lease temporary-use buildings. Existing law provides that any lease of a temporary-use building that

is for more than a total of three years, or is under a lease-purchase contract, is subject to compliance with existing law providing for the construction of school buildings under the supervision of the Department of General Services pursuant to specified standards.

~~This bill would extend this exception from a total of 3 years to 5 years, and would delete the provision regarding lease-purchase contracts. This bill would allow the district to enter into a lease~~ *allow the Los Angeles Community College District to lease a temporary use building for up to a total of 5 years without being subject to compliance with the above provisions of existing law regarding building standards. The bill would provide that this provision would not apply to leases with an effective date or effective renewal date that is after January 1, 2015.*

This bill would make a Legislative declaration regarding the need for a special statute regarding the Los Angeles Community College District.

(3) Existing law allows the governing board of a community college district to sell or lease any real property belonging to the district. Existing law requires the district to call for oral bids before accepting any written proposals to sell or lease district property. Existing law requires the board to accept an oral bid if it exceeds the highest written proposal by 5%.

This bill would repeal the provisions requiring the district to call for oral bids.

(4) Existing law provides that if the property is sold on a higher oral bid, $\frac{1}{2}$ of the commission is to be paid to the broker who submitted the highest written proposal, and $\frac{1}{2}$ of the commission is to be paid to the to the broker who procured the actual purchaser.

This bill would delete provisions requiring the district to split the commission between the broker procuring the highest written proposal and the broker procuring the actual purchaser in the event of a sale on a higher oral bid. This bill would require the full commission to be paid to the broker procuring the purchaser.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 81332 of the Education Code is amended
2 to read:

1 81332. Before the governing board of a community college
2 district enters into a lease or agreement pursuant to this article, it
3 shall have available a site upon which a building to be used by the
4 district may be constructed and shall have complied with the
5 provisions of law relating to the selection and approval of sites,
6 and it shall have prepared and shall have adopted plans and
7 specifications for such building which have been approved pursuant
8 to Article 7 (commencing with Section 81130) of Chapter 1 of
9 Part 49. A district has a site available for the purposes of this
10 section if it owns a site.

11 SEC. 2. Section 81371 of the Education Code is repealed.

12 SEC. 3. Section 81373 of the Education Code is amended to
13 read:

14 81373. In the event of a sale to a purchaser procured by a
15 licensed real estate broker who is qualified as provided in Section
16 81367, the board shall allow a commission on the full amount for
17 which the sale is confirmed.

18 ~~SEC. 4. Section 81523 of the Education Code is amended to~~
19 ~~read:~~

20 ~~81523. (a) The governing board of a community college district~~
21 ~~may lease temporary-use buildings for a term extending to the~~
22 ~~expected duration of use by the district.~~

23 ~~(b) Any lease agreement or contract entered into pursuant to~~
24 ~~this section shall be initiated by resolution authorizing such action~~
25 ~~and prescribing the terms thereof adopted by vote of a majority of~~
26 ~~the members of the governing board.~~

27 ~~(c) A governing board of a community college district shall not~~
28 ~~enter into a lease pursuant to subdivision (a), unless the resolution~~
29 ~~adopted pursuant to subdivision (b) has been published in a~~
30 ~~newspaper published in the district and having a general circulation~~
31 ~~there; or if there is no such newspaper, then in a newspaper having~~
32 ~~a general circulation in the district; or if there is no such newspaper,~~
33 ~~then in a newspaper having a general circulation in a county in~~
34 ~~which the district or any part thereof is situated. Notice shall be~~
35 ~~published no less than once a week for three weeks prior to the~~
36 ~~execution of the lease by the board.~~

37 ~~(d) Any temporary-use building in which students are expected~~
38 ~~to enter and which is leased under one, or successive leases, for a~~
39 ~~total time in excess of five years is subject to Article 7~~

~~(commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of this part.~~

SEC. 4. Section 81523.5 is added to the Education Code, to read:

81523.5. (a) Notwithstanding subdivision (d) of Section 81523, in order to adequately assess long-term site viability, any temporary use building which the Los Angeles Community College District leases under one, or successive leases, for a total time of five years or less, and in which students or faculty are expected to enter, shall be exempt from the provisions of Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of this part.

(b) This section does not apply to a lease with an effective date or effective renewal date that is on or after January 1, 2015.

SEC. 5. The Legislature finds and declares that due to unique circumstances regarding the Los Angeles Community College District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.